IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

WRIT PETITION NO.1173 OF 2005

Tanaji Bayaji Ajethrao. ...Petitioner.
Versus
Vyankatesh Virupaksha Deshpande. ...Respondent.

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Mr. Amit Sale for the Petitioner.

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CORAM : DR. D.Y. CHANDRACHUD, J.

August 30, 2005.

P.C.:

The Summons was served on the Petitioner, the Defendant to the suit, on 12th August 2003. The period of 90 days thereafter expired in November 2003 and a 'No W.S.' order was passed on 11th December 2003. An application was made only in April 2004 and the only ground set out therein was that papers were entrusted to the earlier Advocate to draft a reply to the notice. The Learned Trial Judge is justified in holding that these reasons are not extra ordinary or of such an exceptional nature as could have prevented the Petitioner from filing the Written Statement within the period prescribed in the amended provisions of the

Code of Civil Procedure, 1908. In the present case, the Learned Trial Judge is justified in coming to the finding that there is no case for condoning the delay. The petition, in the circumstances, is dismissed.

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